

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SONYA RIOS,

Plaintiff,

v.

MARTIN O'MALLEY,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:22-cv-01164-HBK¹

ORDER GRANTING AWARD AND
PAYMENT OF ATTORNEYS FEES UNDER
THE EQUAL ACCESS TO JUSTICE ACT

ORDER FINDING PLAINTIFF'S MOTION
FOR ATTORNEY FEES MOOT

(Doc. Nos. 22, 23)

Pending before the Court is Plaintiff's motion for attorney fees filed April 24, 2024 (Doc. NO. 22) and the parties' stipulated motion for award of attorney's fees filed on April 25, 2024 (Doc. No. 23). The parties agree to an award of attorney's fees and expenses to Plaintiff's attorney, Jonathan O. Peña of Peña & Bromberg, PLC, in the amount of \$7,205.09 in attorney fees and expenses, pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. (*Id.*).²

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¹ Both parties have consented to the jurisdiction of a magistrate judge in accordance with 28 U.S.C. §636(c)(1). (Doc. No. 19).

² The stipulated motion moots Plaintiff's motion for attorney fees filed on April 24, 2024. (Doc. No. 22).

1 On January 25, 2024, this Court granted Plaintiff's motion for summary judgment and
2 remanded the case pursuant to sentence four of 42 U.S.C. § 405(g) to the Commissioner for
3 further administrative proceedings. (Doc. No. 20). Judgment was entered the same day. (Doc.
4 No. 21). Plaintiff now requests an award of fees as the prevailing party. *See* 28 U.S.C. § 2412(a)
5 & (d)(1)(A); Fed. R. Civ. P. 54(d)(1); *see* 28 U.S.C. § 1920; *cf. Shalala v. Schaefer*, 509 U.S.
6 292, 300-02 (1993) (concluding that a party who wins a sentence-four remand order under 42
7 U.S.C. § 405(g) is a prevailing party). The Commissioner does not oppose the requested relief.

8 The EAJA provides for an award of attorney fees to private litigants who both prevail in
9 civil actions (other than tort) against the United States and timely file a petition for fees. 28
10 U.S.C. § 2412(d)(1)(A). Under the Act, a court shall award attorney fees to the prevailing party
11 unless it finds the government's position was "substantially justified or that special circumstances
12 make such an award unjust." *Id.* Here, the government did not show its position was
13 substantially justified and the Court finds there are not special circumstances that would make an
14 award unjust.

15 Based on the stipulation, the Court finds an award of \$7,205.09 in attorney fees and
16 expenses is appropriate. EAJA fees, expenses, and costs are subject to any offsets allowed under
17 the Treasury Offset Program ("TOP"), as discussed in *Astrue v. Ratliff*, 532 U.S. 1192 (2010). If
18 the Commissioner determines upon effectuation of this Order that Plaintiff's EAJA fees are not
19 subject to any offset allowed under the TOP, the fees shall be delivered or otherwise transmitted
20 to Plaintiff's counsel.

21 Accordingly, it is **ORDERED**:

22 1. The stipulated motion for attorney fees and expenses filed April 25, 2024 (Doc. No.
23 23) is **GRANTED**.

24 2. The Commissioner is directed to pay to Plaintiff as the prevailing party EAJA fees in
25 the amount of \$7,205.09 in attorney fees and expenses. Unless the Department of Treasury
26 determines that Plaintiff owes a federal debt, the government shall make payment of the EAJA
27 fees to Plaintiff's counsel, Jonathan O. Peña of Peña & Bromberg, PLC, in accordance with
28 Plaintiff's assignment of fees and subject to the terms of the stipulated motion.

1 3. Plaintiff's motion for attorney fees filed April 24, 2024 (Doc. No. 22) is mooted by the
2 later filed stipulated motion.

3
4 Dated: April 29, 2024


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE